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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR 07-00643 DLJ
)	
Plaintiff,)	STIPULATION AND [PROPOSED]
)	ORDER SETTING STATUS
v.)	CONFERENCE AND EXCLUDING TIME
)	
CHARLES A. PHILLIPS,)	
)	OAKLAND VENUE
Defendant.)	

Plaintiff, by and through its attorney of record, and defendant, by and through his attorney of record, hereby stipulate and ask the Court to find as follows:

1. A status conference was previously set in this matter for February 1, 2008, before the Honorable Martin J. Jenkins, United States District Judge. That matter was taken off calendar by the Court and on February 15, 2008, the parties received notice from the Clerk of the Court that the case had been reassigned to the Honorable D. Lowell Jensen, United States District Judge. Through this stipulation and proposed order, the parties request that the matter be placed on this Court's calendar for a status conference at 9 a.m. on March 7, 2008.

2. The parties further request that time period from February 1, 2008, to March 7, 2008, be deemed excludable for purposes of the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*,

STIPULATION AND PROPOSED ORDER SETTING
STATUS CONFERENCE AND EXCLUDING TIME

1 because the parties have used this time to review evidence in the case, to review and analyze
2 discovery materials, investigate the case, develop a motions and/or trial strategy in light of the
3 discovery and to determine whether additional discovery is necessary, and to effectively prepare
4 for trial. Specifically, the parties have discussed and negotiated the production of some
5 information regarding the confidential informant in this case. In addition, the parties have also
6 used this time to transfer physical custody of the methamphetamine at issue in this case from the
7 custody of the Drug Enforcement Administration Laboratory to an independent chemist retained
8 by defendant to examine and analyze the substance in support of his defense.

9 3. Thus, the parties believe that failure to grant the above-requested continuance
10 would deny defendant's counsel and defendant the reasonable time necessary for effective
11 preparation taking into account the exercise of due diligence and that the ends of justice served
12 by continuing the case as requested outweigh the interest of the public and defendant in a trial
13 within the date prescribed by the Speedy Trial Act. The parties therefore respectfully request that
14 the Court find that the time period from February 1, 2008, to March 7, 2008, is excludable
15 pursuant to 18 U.S.C. §§ 3161(h)(8)(A), (B)(iv) because it results from a continuance granted by
16 the Court at the defendant's request and on the basis of the Court's finding that the ends of
17 justice served by taking such action outweigh the best interest of the public and the defendant in
18 a speedy trial and because failure to grant the continuance would unreasonably deny defense
19 counsel the time necessary for effective preparation for trial, taking into account due diligence
20 and is not the result of general congestion of the court's calendar or a lack of diligent preparation
21 by the parties.

22 IT IS SO STIPULATED.

23 JOSEPH P. RUSSONIELLO
United States Attorney

24 Dated: February 25, 2008

25 /s/
GARTH HIRE
Assistant United States Attorney
26 Attorney for United States of America
27
28

1 Dated: February 25, 2008

/s/
WILLIAM A. WELCH

2 Attorney for Defendant
3 Charles A. Phillips

4
5 **[PROPOSED] ORDER**

6 FOR GOOD CAUSE SHOWN, THE COURT ADOPTS THE FINDINGS OF FACT AND
7 CONCLUSIONS OF LAW STIPULATED TO BY THE PARTIES. THEREFORE, IT IS SO
8 FOUND AND ORDERED THAT:

- 9 1. A status conference hearing is now scheduled for 9:00 a.m. on March 7, 2008.
- 10 2. The time period from February 1, 2008, to March 7, 2008, is deemed excludable
11 pursuant to 18 U.S.C. §§ 3161(h)(8)(A), (B)(iv) because it results from a continuance granted by
12 the Court at the defendant's request and on the basis of the Court's finding that the ends of
13 justice served by taking such action outweigh the best interest of the public and the defendant in
14 a speedy trial and because failure to grant the continuance would unreasonably deny defense
15 counsel the time necessary for effective preparation for trial, taking into account due diligence,
16 and is not the result of general congestion of the court's calendar or a lack of diligent preparation
17 by the parties. The Court finds that nothing in this stipulation and order shall preclude a finding
18 that other provisions of the Speedy Trial Act dictate that additional time periods are excludable
19 from the period within which trial must commence.

20
21 DATED: _____

HONORABLE D. LOWELL JENSEN
UNITED STATES DISTRICT JUDGE